

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 7, 2004

IN RE:

**PETITION FOR EXPEDITED REVIEW OF GROWTH
CODE DENIAL BY THE NUMBER POOLING
ADMINISTRATOR RELATING TO WILLIAMSON
COUNTY MEDICAL CENTER**

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**DOCKET NO.
04-00217**

**ORDER APPROVING PETITION OF US LEC
FOR EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 9, 2004. The panel met for consideration of the *Petition of US LEC for Expedited Review of Central Office Code Denial* relating to the Williamson County Medical Center, filed by US LEC of Tennessee, Inc. ("US LEC") on July 21, 2004.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."¹ Among other things, the FCC adopted a mandatory

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"), see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration ("NANPA") "or another entity or entities, as designated by the Commission," for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. ("NeuStar") as the national thousands-block number Pooling Administrator.⁴ The Pooling Administrator administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. In order to facilitate efficient telecommunications services in the Nashville Metropolitan Statistical Area, the 615 Area Code was converted to Thousand-Block Number Pooling on March 14, 2002. Thus, Telecommunications service providers participating in number pooling in the 615 area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 615 NPA is the Second Quarter of 2012.

On July 21, 2004, US LEC submitted a Central Office Code (NXX) Assignment Request to NeuStar to be assigned an NXX code necessary to meet the demands of its customer, Williamson County Medical Center ("Medical Center"). US LEC's application was for a growth code in the 615 NPA to fulfill the Medical Center's request of 1,000 numbers. The purpose of the request was to meet the demands created by Medical Center's continuing growth in services,

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98.

³ See 47 C.F.R. § 52.15(a), see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator).

⁴ In the *Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter "*Third Report and Order*"), see also 47 C.F.R. § 52.15(a).

departments, and patient floors. US LEC did not have sufficient number resources available in the Franklin Rate Center to fulfill Medical Center's request.

The Pooling Administrator, citing US LEC's failure to meet its NXX Assignment Guidelines, denied US LEC's request on July 21, 2004. The guidelines require that a rate center must have a 70% utilization rate and that its estimated exhaust date not exceed six months. US LEC did not meet the first guideline because the Franklin Rate Center has a 69.42% utilization rate. The second guideline was not met because the Franklin Rate Center has an 11 month projected exhaust date.

On July 21, 2004, the *Petition of US LEC for Expedited Review of Central Office Code Denial* was filed with the Authority. US LEC asserts that its inability to supply the Medical Center with the requested numbers prevents US LEC from providing the quality of service its customers expect.⁵ US LEC requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the NeuStar Administration's denial of US LEC's application is authorized by the FCC.⁶ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of

⁵ *Petition of US LEC for Expedited Review of Central Office Code Denial*, p. 5 (July 21, 2004).

⁶ *Third Report and Order*, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv).

these specifically enumerated instances.⁷

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁸

At a regularly scheduled Authority Conference held on August 9, 2004, the voting panel assigned to this docket considered the *Petition of US LEC for Expedited Review of Central Office Code Denial*. After considering the evidentiary record and policy goals required by Tenn. Code Ann. § 65-4-123 regarding this agency's responsibility to foster competition in the telecommunications industry, the panel voted unanimously to approve US LEC's request for expedited review and reverse the Pooling Administrator's denial of US LEC's request for additional numbering resources.

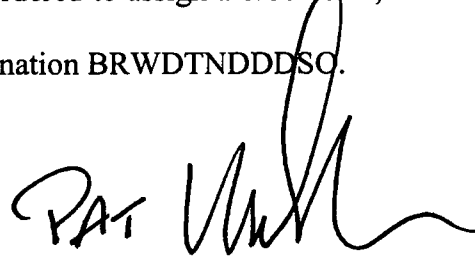
IT IS THEREFORE ORDERED THAT:

1. The *Petition of US LEC for Expedited Review of Central Office Code Denial* filed by US LEC is granted.
2. The Pooling Administrator's decision to deny US LEC's request for additional numbering resources is reversed as stated herein.

⁷ *Third Report and Order*, ¶ 61

⁸ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another."); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F C C R 18,502, 2001 WL 1222428 (Oct. 15, 2001).

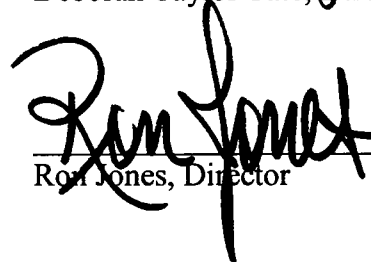
3. The Pooling Administrator is ordered to assign a block of 1,000 numbers to US LEC for the Franklin Rate Center, Switch Designation BRWDTNDDDDSO.

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Pat Miller, Chairman

A handwritten signature in black ink, appearing to read "Deborah Taylor Tate", written over a horizontal line.

Deborah Taylor Tate, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director